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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,981	09/12/2003	Ronald Roger Morlen I	31000-1770	9340

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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/661,981

Applicant(s)

MORLEN, RONALD ROGER

Examiner

Bret C Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/12/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, claims 6 and 16, the “hook assembly according to Claim 1 (12) wherein said loop has a first end and a second end, at least one of said first and second ends is coupled to said curved portion and the other of said first and second ends is spaced from said curved portion” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The claims appear to recite that one end is not necessarily attached. If that is true, it needs to be shown in the drawings, since it is a claimed embodiment.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 6 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. See above regarding the drawing objection and cancellation of the claims. One cannot make the device if cannot see how to the device appears upon completion of fabrication.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 3 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 3 and 14 recite the limitations "said outer edge surface" in lines 2 and 3 of each. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102 & 103

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3, 4, 7 – 12, 14, 15 and 17 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,884,428 to Shelton.

10. Re – claim 1, Shelton discloses the claimed invention including a hook assembly 10 comprising: a shank portion 14; a curved portion 16 extending from the shank portion 14; and a loop 18 extending from the curved portion 16.

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11. Re – claim 12, Shelton further discloses a tail portion **99**, Fig. 7F, for example. While Shelton does not explicitly state the existence of an axis, most conventional and commercially available hooks have shanks inherently including an axis.

12. Re – claims 3 and 14, Shelton further discloses the curved portion **16** having inner and outer edges, the loop **18** extending from the outer edge.

13. Re – claims 7 and 17, Shelton discloses the loop **18** being formed integrally to the curved portion **16**. Further, and alternatively, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the loop integral with the curved portion, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1983). Further, it has been held that the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973).

14. Re – claim 8, Shelton further discloses a wire assembly **74** coupled to the hook assembly.

15. Re – claim 9, Shelton further discloses the loop **18** being centrally located along an outer trailing edge of the curved portion **16**.

16. Re – claim 10, Shelton further discloses the loop **18** being disposed along the curved portion **16** between the shank portion **14** and the tail portion **99**.

17. Re – claim 11, Shelton further discloses the loop **18** being substantially planar to the curved portion **16**.

18. Re – claims 4 and 15, Shelton discloses the loop **18** being arcuate.

19. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton.

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20. Re – claim 5, Shelton discloses the claimed invention except for the loop being at least one of square and triangular shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the loop any desired shape, since there is no invention in merely changing the shape or form of an article without changing its function except in a design patent. *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23. In this case, the function of the loop is to be able to attach a fishing line, which function does not change with shape.

21. Re – claim 13, Shelton discloses the claimed invention, and further, the use of a spinner blade, see Fig. 5C, for example, except for coupling a spinner blade to the loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shelton to couple the spinner blade to the loop, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

22. Claim 2 rejected under 35 U.S.C. § 103 as being unpatentable over Shelton in view of US Patent No. 6,189,257 B1 to Ulrich.

23. Shelton discloses the invention substantially as claimed, as applied above. However, Shelton does not disclose at least one of a hook, a weight, a spinner blade, and a trailing hook being coupled to the loop **18**.

24. Ulrich teaches coupling at least one hook **14** and trailing hook **16** in the same field of endeavor for the purpose of using an array of clustered fishing hooks

25. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shelton to include coupling at least one hook and trailing hook as taught by Ulrich in order to array a cluster of fishing hooks. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to couple a weight and

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a spinner blade, since it was known in the art that weights and spinner blades are conventional and commercially available fishing tackle and are usually coupled to fishing tackle.

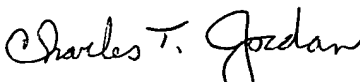
Conclusion

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

bh

3/31/04


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